Filed 8/24/15 In re Rachel R. CA2/7

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SEVEN

In re RACHEL R., a Person Coming Under the Juvenile Court Law.	B258864 (Los Angeles County Super. Ct. No. CK96281)
LOS ANGELES COUNTY DEPARTMENT OF CHILDREN AND FAMILY SERVICES, Plaintiff and Respondent, v. JUDY R., et al., Defendants and Appellants.	

APPEAL from orders of the Superior Court of Los Angeles County. Marilyn Martinez, Juvenile Court Referee. Affirmed.

Lori Siegel, under appointment by the Court of Appeal, for Defendant and Appellant Judy R.

Julie E. Braden, under appointment by the Court of Appeal, for Defendant and Appellant Don R.

Mark J. Saladino, County Counsel, Dawyn R. Harrison, Assistant County Counsel, and Jeanette Cauble, Senior Deputy County Counsel for Plaintiff and Respondent.

Nicole Williams, under appointment by the Court of Appeal, for Minor.

Judy R. and Don R. appeal the dependency court's orders terminating reunification services and removing their educational rights with respect to their daughter Rachel R. We affirm.

FACTUAL AND PROCEDURAL BACKGROUND

I. Initial Investigation and Detention

Rachel R. was fifteen years old when she came to the attention of the Department of Children and Family Services in October 2012 after running away from home following an argument with her father. According to the initial report to DCFS, Rachel R. stated that she was emotionally abused by her parents and that she feared for her safety. Specifically, Rachel R. stated that her mother called her names, including "asshole," and that after she had been hospitalized for depression the prior year, her parents "yelled" at her. Rachel R. accused her father of ridiculing and laughing at her.

Rachel R. reported to DCFS that she became depressed when she was bullied at school. When she told her mother about the bullying, her mother Judy R. responded, "[N]o wonder no one likes you." Rachel R. explained that her mother played on her insecurities and that she and her mother did not get along. The following year, Rachel R. began experiencing panic attacks and episodes in which she "checked out"—that is, when she could not do anything beyond staring. She was diagnosed with depression. When Rachel R. attempted to talk with her parents about her depression and her feelings, they laughed at her. Judy R. told her that she was "boring," "stupid," and "bitchy," and asked why she could not be "a little interesting." Rachel R. began cutting herself, and as she became more depressed, she felt less support from her parents.

Rachel R. told DCFS that her mother did things to make her feel bad or guilty. Judy R. used to call Rachel R. profanities, including calling her an "asshole." According to Rachel R., Judy R. had told her that she never wanted her.

Rachel R. said that on one occasion her parents forced her to eat foods to which she was allergic, then blamed her when she began experiencing reactions. Judy R. told

her to "knock it off," and took her to the restroom, where she began screaming at her that she had ruined her father's dinner. Rachel R. was punished, and her mother took away her telephone and computer, telling her, "Don't you dare air our dirty laundry." Rachel R. said that Judy R. grabbed her by the arms, shook her, and called her names like "pissy" and "bitch."

Rachel R. gave DCFS further information about the incident that led to her running away from home. When she and her father differed in their views of the severity of an injury to her finger, he called her "arrogant." Don R. rolled his eyes and making faces as she tried to talk to him about the pain she was experiencing. He began to mimic everything she said, causing her to be very upset. Judy R. intervened and began laughing at her about her finger being sprained. Rachel R. observed that her parents did not treat her brother in this way and said she did not know why they treated her in this manner.

Rachel R. decided that she could kill herself or run away from home, and she chose the latter. Rachel R. denied suicidal ideation, but she told DCFS that she feared if she went home she would become depressed and suicidal. When she was home, she seriously contemplated suicide. She did not wish to return home or to have any contact with her parents. Additionally, she did not wish to continue therapy with her present therapist, Dr. Cynthia Levy, as she believed that Levy was not helping her.

Rachel R. had been the subject of a prior DCFS investigation in 2012. Rachel R. had been cutting herself and hit her head against a wall until she passed out. The allegation of emotional abuse by Judy R. was determined to be unfounded, but Rachel R. told DCFS that her parents told her not to disclose any emotional abuse and to deny the allegations.

Rachel R. was physically healthy and appropriately dressed and groomed. She was an A student in honors classes at her private high school, and she attended school daily with no problems in her school life.

Don R. said that Rachel R. became "testy" and "fussy" when she did not like the diagnosis at her medical appointment prior to running away. They argued, and Rachel R. cursed and acted disrespectfully. Don R. said that Rachel R. "complains about

everything and is too sensitive." Although Don R. generally denied making fun of or mimicking Rachel R., he did admit that he had mimicked her that day. He said that Rachel R. loved to act like a victim and accused her of engineering this situation so that she could live with her friend. Don R. admitted that Judy R. had "probably" called Rachel R. names in the past.

Judy R. told DCFS that her relationship with Rachel R. was fine. She admitted screaming at Rachel R. and losing her temper. She told DCFS that Rachel R. had behavior problems and that she had stolen money from Judy R. and Don R. when she was seven years old. According to Judy R., Rachel R. was very secretive, and there was a problem with her tone of voice. Judy R. denied making fun of Rachel R., calling her names, mimicking her, laughing at her, or making fun of her depression. Judy R. denied knowing that Rachel R. suffered from depression or any mental health issues. She denied that Rachel R. had ever told her she felt depressed. She said "she does not know what is going on with Rachel or why she is doing this."

Rachel R. was detained and placed in the home of a friend, Diana P. DCFS filed a petition under Welfare and Institutions Code[1] section 300, subdivisions (a), (b), and (c), alleging that Judy R. had physically abused Rachel R.; that Don R. and Judy R. had failed to protect Rachel R. by contributing to conflicts with her to the point that she was unwilling to have contact with them, and that they were unable to address her needs for care; and that Don R. and Judy R. had emotionally abused Rachel R. by screaming at her, cursing at her, ridiculing her, and calling her derogatory and demeaning names. DCFS recommended that Rachel P. be detained in the home of Diana P. and that the parents have monitored visitation.

On November 2, 2012, at the initial detention hearing, the juvenile court detained Rachel R. and ordered family reunification services and counseling for her. The court ordered monitored visitation, but specified that there should be no visits between Rachel R. and her parents before the next court hearing.

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1 Unless otherwise indicated, all further statutory references are to the Welfare and Institutions Code.

II. Jurisdiction/Disposition Report and Hearing

By the time that DCFS filed its Jurisdiction/Disposition Report on December 17, 2012, Rachel R. had been moved to a foster home. At this time, DCFS characterized Rachel R. as "an emotionally troubled child" whose parents were well-intentioned but "unable to comprehend the depth of her mental health issues." DCFS noted that Rachel R. felt detached from her parents and wanted to sever her relationship with them, but concluded that Rachel R. was too young to be independent and that it was not in her best interest to terminate that relationship. DCFS recommended that she be removed from her parents' custody with reunification services, monitored visitation, individual counseling, and conjoint counseling when appropriate.

On December 17, 2012, the court ordered Rachel R. to attend individual counseling and to have a mental health evaluation. The court ordered monitored visitation in a therapeutic setting and conjoint counseling at the discretion of Rachel R.'s therapist.

In February 2013, as part of a mediated agreement entered into by counsel and the parties, Judy R. and Don R. pleaded no contest to the allegation under section 300, subdivision (b) of the dependency petition that they failed to protect Rachel R. The allegations of physical abuse and serious emotional harm were dismissed. The court ordered Rachel R. removed from the custody of her parents. The court also ordered family reunification services and monitored visitation, initially in a therapeutic setting. Judy R. and Don R. were instructed to participate in individual counseling and in conjoint counseling at the discretion of the therapist. Rachel R. was ordered to receive individual counseling. Finally, the court ordered an evaluation of the family pursuant to Evidence Code section 730.

III. The First Year of Reunification Services

A. February-July 2013

In February 2013, Rachel R.'s parents refused to pay the tuition at her private high school due to Rachel R.'s refusal to visit with them, and she began attending a new high school. She also began counseling with a new therapist, social worker Claire Greene.

In March 2013, Rachel R. told a friend that she wanted to die, and was hospitalized on a psychiatric hold and for treatment of self-inflicted superficial cuts on her wrists. Upon discharge, Rachel R. refused to return to her foster home and was placed with a family friend, Laura H. This placement was known to be available only until the early summer.

As of April 2013, Rachel R. was described by DCFS as stable, attending school daily, and thriving at her new placement. She denied suicidal ideation or depression, and reported that therapy was helping to stabilize her mood and mental health. Rachel R.'s therapist described her as having good insight but also having desperate feelings and actions that put her in danger. She refused to visit with or speak with her parents, and even thinking about contact with them gave her anxiety. Rachel R. remained convinced that she could not return home.

A maternal aunt and uncle in Arizona expressed interest in Rachel R. living with them. On July 10, 2013, the court authorized a 29-day visit with them. DCFS was ordered to initiate an Interstate Compact for the Placement of Children (Fam. Code, § 7900, et seq., "ICPC") investigation into their home.

B. Evidence Code Section 730 Evaluation

The juvenile court ordered Chuck Leeb, Ph.D. to evaluate Rachel R.'s family and to make recommendations regarding the likelihood that Rachel R. would be physically or emotionally abused by a parent; the relationship between the parents and Rachel R., including recommendations regarding intervention to repair the relationship and conjoint counseling; appropriate placement, custody, and visitation. Further, Leeb was ordered to

perform psychological testing on Rachel R. and her parents and to make specific recommendations for a case or services plan to support the goal of family reunification.

On July 11, 2013, Leeb filed his evaluation with the juvenile court.[2] Rachel R. disclosed to Leeb that as a result of the emotional pain caused by living with her parents she had attempted suicide three times. She reported that her parents acted differently behind closed doors than they did in the presence of others. Rachel R. described her mother as vindictive, self-centered, cruel, crazy-making, and an actress, with a way of convincing others that she is right and persuading them to do her bidding. Her father was vain, passive, and deferential to Judy R.

Leeb reported that Rachel R. had no interest in repairing her relationship with her family, in reunification, or in conjoint counseling. She described herself as starting to feel stable and good about herself, and she did not want to ruin that progress by returning to her parents. Rachel R. felt that her initial therapist, Levy, was allied with her parents and pressured her to do things she did not want to do, such as to return home or to undergo conjoint therapy. Rachel R. found her present therapy with Greene to be beneficial and educational.

Leeb concluded that Rachel R. had an avoidant attachment structure due to her parents' consistent ineffectiveness at meeting her emotional needs beginning in infancy. She had long since learned that her parents would not meet her needs and that there was no purpose in turning to them. Leeb concluded that Rachel R. was "not equipped to deal in an effective manner with the anxiety created from the treatment of her family," and that she consequently felt "totally defenseless from the multiple, pointed onslaught from her family." Leeb advised that in a safe and protective environment, Rachel R. would become more secure; and that with further therapy, she would develop effective coping skills and abilities.

Judy R. told Leeb that Rachel R. was a difficult child who "always blames others for her mistakes." Leeb found Judy R. to have a "dismissive attachment style," with

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[2] We granted County Counsel's request to augment the record with this evaluation.

"excessively brief" responses displaying little emotional connection with her own parents. Based on Judy R.'s description of her relationship with her own mother, Leeb suspected that Judy R.'s mother had teased her cruelly, causing Judy R. to feel shame and unworthiness in the eyes of her mother. Leeb believed that it was "most probable" that Judy R. carried a sense of shame at her perceived lack of worth, and that those experiencing this kind of shame frequently "build an unconscious false front to protect themselves from attack. This false front is all about appearances of being well put together. They manipulate their environment to ensure the false self is maintained at all costs."

People who construct an outwardly perfect appearance of this sort, Leeb wrote, "usually rule the relationship or the family with an iron hand and demand that all put on the same public face." "In private things can be different, as it is here that all the slights and rejections are felt and retaliated against with the filters removed." According to Leeb, families with a person like this often single out one person "as the repository of all ills." Leeb wrote, "One family member is designated the outlier on whom the family dysfunction is focused. If the designated target does anything to mar the family's appearance, then all attempts must be made to pull the traitor back into the fold. Once returned, the punishment for betrayal is fierce." Leeb observed that Don R. had admitted that Judy R. had called Rachel R. names in the past. He suspected that Rachel R.'s "filing of a complaint may be viewed as the ultimate betrayal. How dare anyone challenge the 'perfect' world[?] The only person who would do so must be seriously flawed, and a threat."

Don R., too, presented with a dismissive attachment style, but one that was passive. He had learned at an early age to "shut up and go along." "He is in a relationship where he admits to taking the passive role and avoids confrontation. He knows if he stands up for Rachel [R.], he will be told he is being too easy, he is being manipulated, and why does he always give in to her. He would then become the focus for anger."

Leeb found to be flawed the notion that Rachel R. was the problem in an otherwise functional family: "If this family is so wonderful and functional, then where does Rachel's troubling behavior stem from?" He concluded that the family was a classic example of an "IP family," where "IP" stands for "Identified Patient." In an IP family, "there is one parent in charge. That parent's personality structure brooks no deviation from the script[,] which most often states, 'We are the perfect family.' The spouse is typically quite passive and their background is often one of being bullied. There is one (sometimes more) perfect child. All dysfunction of the accepted ones is either denied or minimized. Then there is the Identified Patient. This is the child on whom the whole family focuses their dysfunction. The IP is chosen because she/he is viewed as being the most threat to the ruler. Prettier/handsomer, smarter, better athlete, resembles a negative object, etc.; this child is often viewed as spoiled, manipulative, and defiant because they do not go along with the program. The IP is often the target of emotional abuse and sometimes of physical abuse. The abuse is justified by the family by their negative view of the child. It is in the best interests of the non-targets to go along with the program. They observe what happens to the IP and want to protect themselves. The 'ins' develop a strategy to make sure the outside world knows what a difficult child the IP is, and how wonderful, long-suffering, and patient they are to deal with this problem."

Leeb noted the unusual and significant pressure being brought to bear on professionals involved in the matter. "[S]everal of the professionals contacted in this case have stated they have received more pressure on this case than in all their previous cases combined. I can say the same, having received e[-]mails from mother's attorney and expressing her concern because I was not working at the pace she felt I should to meet the family's needs. Usually, the same day I receive e-mails from the mother's attorneys, I also get a voicemail from the [social worker]. The pressure appears to be orchestrated." Leeb felt pressured to produce a pro-reunification report: "A comprehensive examination determining what is in Rachel's best interests does not appear to be an important consideration by the family's attorney as much as procuring a

quickly done report in favor of family reunification." Leeb wrote, "I think it is distressing there has been no mention of addressing Rachel's needs."

Leeb noted that Rachel R. had difficulty trusting others, was suspicious of offers of help, and felt "ganged-up on" by her family. Leeb concluded she had good reason to feel this way: "It appears, except for Rachel's current therapist Ms. Greene, there is a total lack of understanding of Rachel. As stated in the Detention Report dated 11/02/2012 Page 12: [the social worker] states: 'The parents appear to blame Rachel.' Most people connected to this case have also adopted the described scenario related by the other family members regarding Rachel. Rachel has difficulty trusting others and is suspicious of their intentions to help her with good cause. The reason is that Rachel is being ganged-up on by her family."

Leeb understood Rachel R.'s demanding behaviors concerning placement as driven by fear. "She has been in an environment where for the first time in her life she has felt safe and secure as evidenced by the lack of symptomatology. She now faces being torn from a place of safety and thrust into the unknown. Her greatest fear is that she will be forced back home. Second is the fear that her new placement will not like her." Leeb emphasized that even as Rachel R. wanted a safe and secure environment, she was also conditioned to mistrust its sustainability. He anticipated that out of fear and to protect herself from disappointment, she might attempt to move from placement to placement whenever she began bonding with her caregiver. Her fears, Leeb advised, needed to be addressed.

Leeb recommended against placing Rachel R. with her family and believed that if she were sent home, "the probability of her being successful in killing herself is quite high." Leeb concluded that the likelihood of Rachel R. being emotionally abused if she returned to her parents was also quite high. Leeb believed that the goal of family reunification was "inappropriate and detrimental to Rachel's well-being at this time." He recommended against conjoint counseling and believed that Rachel R. should be the "sole determiner" of whether visitation occurred.

Leeb also expressed concerns about the maternal aunt that had come forward to offer to take care of Rachel R. in Arizona. He noted that he understood that the aunt wanted DCFS to close Rachel R.'s case and that she did not want the social services agency in Arizona to be involved. Leeb found this alarming: "The only individuals who have taken on the responsibility for a child in need of services, who demand that oversight be removed, are known to have extreme control issues and/or behavior to hide. This is not what Rachel needs. It is to be remembered that maternal aunt was raised in the same toxic emotional environment as mother and is requesting no monitoring of any kind." He recommended that Rachel R. not be placed with her maternal aunt unless she agreed to the case remaining open with DCFS and the case transferred to Arizona for active supervision by the equivalent service agency there.

C. July-December 2013

As of July 2013, Rachel R. was reported by her therapist to be improving. Rachel R. had been suicidal when she began therapy with Greene, but in her successful placement with Laura H., Rachel R. was doing very well. Rachel R. continued to refuse visitation with her parents, although she felt that at some time in the future she might be willing to meet with them for closure. Rachel R. was adamant that she would never agree to return to the family home and expressed a desire to live with her maternal aunt, Rita G., in Arizona.

Rachel R. settled in smoothly in Arizona. She had telephonic sessions with Greene twice per week. Rachel R. toured a private school in her aunt's neighborhood and loved it. Rita G. told DCFS that Judy R. and Don R. had agreed to pay for the school, and they were working on enrolling Rachel R. for the upcoming school year. Rachel R.'s 29-day visit was renewed for another 29 days at the July review hearing, and the court ordered that she be enrolled in school in Arizona.

Judy R. hired a therapist to propose a plan for conjoint therapy. This therapist, Lynda Doi Fick, M.A., M.F.T., made six recommendations: (1) if her proposed treatment plan was adopted, the court should explain to Rachel R. why it was accepted; (2)

Rachel R. should be transitioned to a new therapist in Arizona with the assistance of her aunt and uncle, and then she should be then required to undergo conjoint counseling with her parents with the explanation that it was "not her choice and has been determined by the Court to be in her best interest"; (3) the parents' current therapist should prepare them for conjoint sessions; (4) Rachel R. should meet with one parent at a time, starting with her father; (5) the therapists should coordinate treatment, respecting Rachel R.'s confidentiality; and (6) if Rachel R. decompensated, consideration should be given to an adolescent residential treatment center. In August 2013, the juvenile court ordered DCFS to make reasonable efforts to begin implementation of the first five recommendations.

Rachel R. wanted to continue therapy with Greene, but Greene was not licensed to practice in Arizona and could not continue treating her. Rachel R. began seeing a new therapist, Doreen Ellis. Rachel R. was, DCFS reported, "stressed by the change in therapists, which has caused some acting out." Rachel R. and Ellis had difficulty establishing a therapeutic relationship. Ellis spoke with Rachel R.'s parents, which upset Rachel R. Ellis agreed to broach in therapy the subject of a relationship with her family being beneficial to Rachel R. Rachel R. told DCFS, however, that she would not work with any therapist whose treatment goal was conjoint counseling with her parents, and she vowed that "conjoint therapy will never happen." Ellis sent an e-mail to Rita G. that was provided to the court; as it apparently contained extensive information about Rachel R.'s statements in therapy, Rachel R. objected to the disclosure of this privileged psychotherapist-patient information. Ellis told DCFS that if Rachel R. would not work with her and their sessions consisted of arguing with each other, she would drop Rachel R. as a client.

Rachel R.'s parents asked DCFS to prohibit Rachel R. from contact with Greene. In September 2013, the court ordered Rachel R. to have no further communication with Greene and to participate in weekly therapy with an Arizona therapist.

As of November 2013, Rachel R. had refused to see Ellis any further. Rachel R. and Rita G. searched for an acceptable therapist but were not immediately successful, and Rachel R. was referred to Ellis again. DCFS and Rita G. agreed that Rachel R. needed

therapy immediately as she had become sad and withdrawn. The ICPC still had not been completed. On November 15, 2013, the court ordered Rachel R. to see therapist Susan Connolly and extended her visit with her aunt and uncle. Rachel R. had seen Connolly twice before and resumed therapy with her in December 2013.

The relationship between Rachel R. and her aunt and uncle deteriorated. Rachel R. did not trust them and believed they were not forthcoming with her. Rita G. described Rachel R. as depressed, demanding and mercurial. By the end of December 2013, Rachel R.'s aunt and uncle told DCFS that they could not commit to a permanent placement of Rachel R. in their home.

Despite the stress of living with her aunt and uncle, Connolly believed as of late December that the living situation was good for Rachel R. She noted that Rachel R.'s school was "nurturing and a source of support for her," and that she had become more confident and had made many friends. Rachel R. was "open and able to look at herself and her own shortcomings, and, at the same time, not be hard on herself." In therapy, Rachel R. was working on feeling better about herself, and a goal of treatment was "that she could actually be around her parents for limited amounts of time, hang on to herself, and not regress."

IV. Twelve-Month Permanency Hearing

The 12-month permanency hearing was initially set for January 2014. Before that hearing, Judy R. filed a motion requesting that the court move Rachel R. to a therapeutic boarding school in Utah and terminate dependency jurisdiction. According to a letter from this school, if Rachel R. were to attend the school, she would be required to undergo 90 minutes of family therapy weekly via Skype; family weekends; and days of multi-family group therapy, single-family therapy, and experiential activities.

Ellis, the therapist Rachel R. had refused to see; a psychologist to whom Ellis had referred Rachel R. for evaluation; and Doi Fick, the therapist hired by the parents to put together a treatment plan, all supported Judy R.'s request. By the time of the review hearing, Rachel R.'s aunt and uncle had decided that they wanted her to return to Los

Angeles, and they, too, agreed with Judy R.'s request that Rachel R. be placed in a structured environment.

Rachel R. opposed her mother's petition to send her to therapeutic boarding school in Utah. She argued that she was thriving emotionally and academically at her present school and with her current therapy, and that moving her against her will to a residential treatment center would cause her immediate harm and set back her progress. Rachel R. pointed out that the therapists who recommended this move were hired and paid for by her parents, while her own therapist and DCFS both agreed that such a school was unnecessary and potentially detrimental.

In support of her opposition, Rachel R. submitted a letter from the head of her high school, who commended her for "quickly bec[oming] a leader in the classroom, on the stage and in the various extracurricular aspects of school life." He reported that Rachel R. had transitioned "brilliantly" to the school's academically rigorous program, earning a 3.80 grade point average and academic honors in her first trimester. Rachel R., he wrote, had "fully acclimated" to the school, with an "inspiring" performance in the fall drama production and full engagement in her work responsibilities and her equestrian participation. He also noted that he often saw her "laughing with a group of friends" when she was not studying.

Rachel R. also wrote to the court asking not to be forced to leave her school. She described her school as a "kind, warm, [and] nurturing" community where she had formed relationships with her therapist, teachers, dorm parents, school administrators, and peers. She wrote that since coming to this school—her third in less than a year—"I sleep better, feel more at peace and am excited to wake up each morning and start the day. At [this school] I am a part of a community which cherishes me. I feel proud to be a member of this community." She told the court about her high grade point average and recounted her participation in activities and service in which she was engaged.

DCFS opposed Judy R.'s request to have Rachel R. placed in a therapeutic boarding school: "DCFS does not believe that Rachel 'needs' a 'therapeutic boarding school.' DCFS acknowledges that DCFS is not even clear on what the parents['] concept

is of a therapeutic boarding school, but the closest type of setting to that is a Level 12 Group home with clinical services such as Hathaways or Vista Del Mar. The parents[’] request is deceptively complex, and as it is unpacked it becomes less and less appropriate. DCFS will not agree to send a child out of state to a Therapeutic Boarding School funded by the parents. That would require DCFS to recommend that Rachel be legally returned to the care and custody of the parents (who can also then discontinue the Boarding School at any time), and clearly Rachel is not ready for that. In addition, this goes against the ‘Least Restrictive’ rationale that DCFS and the Courts have endorsed for many years. If Rachel’s care requires a more structured setting, DCFS would recommend proceeding first with a[Foster Family Agency], a D-rate home, or even [a] foster home with Wraparound Services. Further, DCFS has some concern that the parents may be unintentionally acting out the very dynamics predicted by the [Evidence Code section] 730 report. While there have been other assessments of Rachel and her circumstances, those appear to have been procured by the parents, or at the very least, influenced by them and possibly without the authors having access to the legal file or other important information. . . . This matter has been raised to the level of DCFS Clinical Director, Dr. Sophy, and as a result of that consultation, it was determined that it is premature, at this point, to go in that direction.”

DCFS advised the court that it believed that Rachel R. was “sabotaging the parents[’] ability to move forward by refusing to have any contact with them,” but that Judy R. and Don R. demonstrated by their petition to send Rachel R. away that they did not “understand[] the intent of the Court-ordered [Evidence Code section] 730 evaluation.” Judy R. and Don R., DCFS opined, “need to make a genuine effort to actually apologize to Rachel and ‘own up’ to their role in her current emotional difficulties.” DCFS advised the court, “[W]hile the parents are trying to move forward, they are moving at their pace and not at [] Rachel’s. This is part of the troubling dynamics that led to this case coming before the Court. They have much more clinical work to do, as does Rachel, before a[] Home of Parent order can be seriously considered. In the meantime, keeping Rachel in the relatives’ home is not a viable solution either.”

DCFS recommended the termination of family reunification Services and the provision of permanent placement services. Because Rachel R.'s aunt and uncle wanted her to leave, DCFS recommended as of January 7, 2014, that Rachel R. should be returned to Los Angeles for suitable placement.

In a report filed the following week, DCFS advised the court that it had located a residential group home in Los Angeles for Rachel R. but that it now recommended that Rachel R. remain in Arizona with her aunt and uncle. DCFS explained that its earlier recommendation that Rachel R. return to Los Angeles had been based upon her aunt and uncle's assertion that taking care of her was "too much for them." From the information subsequently obtained about Rachel R., however, DCFS wrote that "it is clear that Rachel is performing at a very high level in certain aspects of her life. She is not only well-liked and excelling in her academics at school, but she is also engaged by area adults to baby-sit their children. There have been favorable reports of her conduct in this area of responsibility as well." "[I]t seems clear," DCFS told the court, "that Rachel is 'emotionally nourished' by the current academic and social milieu. This is a healthy and positive development which DCFS would strenuously argue is a curative factor in her life." DCFS therefore concluded that it would be in Rachel R.'s best interest to stay in Arizona with her aunt and uncle; to remain enrolled in her school; for her to continue with her individual therapy; and for her to participate in conjoint family counseling with her aunt and uncle as needed. DCFS reiterated that in any event, there was "no scenario at this time that would persuade DCFS to support either of the two significant elements in mother's [petition]—neither a release to their custody and control, nor an Out of State placement which is unnecessary and not in Rachel's best interests."

In last minute information provided to the court on January 13, 2014, DCFS advised the court that it believed Rachel R. "may in fact be getting better" despite or because of the oppositional behavior that so exasperated her aunt and uncle. DCFS observed that as challenging as Rachel R. could be, she demonstrated none of the troubling behaviors typically expressed by children in group homes. DCFS opined that Rachel R. had improved while staying with her aunt and uncle and that this suggested

that she did not presently require a residential treatment facility. DCFS suggested that the lack of progress toward reunification made by the family was attributable to Rachel's parents and family, who "seem to continually make efforts to 'steer' attention away from the only true formally ordered [Evidence Code section 730] evaluation in this case," Leeb's July 2013 evaluation. DCFS observed that Leeb's report had proven predictive, as demonstrated by the parents' "over-willingness to send Rachel out of state rather than proceed forward as indicated in the [Evidence Code section] 730 [report]. They have attempted to sway DCFS and caregivers, and possibly therapists, and private evaluators toward this notion of therapeutic boarding school, which might ultimately be a possible solution, but goes directly against all notions of least restrictive level of care." DCFS believed that a possible explanation for Rachel R.'s continued alienation from her parents even as she improved in other areas was that the recommendations made by Leeb had not been followed: "DCFS suggests that a possible explanation for [this distance] is the diversion away from the recommendations offered by Dr. Leeb in his [Evidence Code section] 730 evaluation. This evaluation represents the only neutral evaluation and the current petition seems to continue to divert away from that report. The parents may not like that report because in some areas it is harsh. The parents have seemed to commission[] other evaluations but these appear to be causing digressions from the serious problems confronting this family. There may be a relationship between the parents[']resistance to Dr. Leeb's report and the lack of more substantive progress or improvement in the family dynamics in this case."

Attached to this last minute information was a letter from Connolly, who wrote that living with her aunt and uncle had become too stressful for Rachel R. to tolerate. Connolly proposed that Rachel R. remain at her present school as a boarding student and to continue in her therapy because both were positive and supportive experiences for her. If boarding was not a possibility, Connolly recommended therapy to help Rachel R. cope with her living situation with her aunt and uncle and to for her continue as a day student at her school; she should not be placed in a residential treatment center.

On January 13, 2014, the court postponed the permanency hearing and ordered that Rachel R. remain in Arizona for 29 days and board at her high school. Don R. and Judy R. were ordered to consider paying the boarding school fees for the remainder of the school year. The court ordered that a conjoint counseling appointment be booked within 7 days and that conjoint counseling between Rachel R. and her parents must continue absent an emergency. DCFS was ordered to commence an ICPC with the boarding school.

Rachel R.'s Arizona school was unwilling to consider accepting an ICPC, but it advised DCFS that it would be glad to consider Rachel R. as a boarding school student with a "clean enrollment"—an application, a new contract, and a payment. Don R. and Judy R., however, refused to pay for the remainder of the school year. The boarding school reported that "the parents are very vocal that they don't want to write that check." Although the school did not offer payment plans, Don R. and Judy R. wanted the school to waive its requirements to permit them to make monthly payments. As a result, the school declined to accept Rachel R. as a boarder, and Judy R. then relied on this refusal as the basis for renewing her request to move Rachel R. to the therapeutic boarding school in Utah. DCFS and Rachel R. both opposed this renewed request.

The family had its first conjoint counseling session on January 22, 2014. The court held an interim hearing on January 30, 2014, and left Rachel R. in her placement pending the upcoming review hearing. The following day, Rachel R.'s aunt and uncle demanded that DCFS remove Rachel R. from their home.

Rachel R. was returned to Los Angeles on February 6, 2014, and placed in a foster home. Connolly, her Arizona therapist, wrote to the court that Rachel R. had made progress in her therapy. Connolly believed that staying at the Arizona school would have been ideal for Rachel R., and expressed that Rachel R. "had difficult[y] with the decision that she could not remain at the school, as her parents have been eager to pay $85,000 a year, reportedly, to place her at a therapeutic boarding school in Utah." Connolly noted that this was not the first time Rachel R.'s parents had removed her from a successful

school situation, as her parents had disenrolled her from another private school the previous year.

Connolly recommended that Rachel R. be enrolled in public school and live in a foster home "so there is no danger to her [of] being dis-enrolled once again." Connolly strongly recommended that Rachel R. not be sent to a residential treatment facility because "Rachel has none of the mental health issues" that the facility represented that it treated. In fact, placing Rachel R. in such a facility would only "serve to reinforce, once again, that the problem is with Rachel," the identified patient in the family. Connolly reported that in the two conjoint sessions she had observed, Rachel R.'s parents "spoke of how much they loved her and what an 'amazing job' they[] had done at adjusting to her absence. The parents' focus, in my professional opinion, seemed to be more about their hardship than on Rachel's."

The review hearing took place on February 10, 2014. The court found that returning Rachel R. to the physical custody of her parents would create a substantial risk of detriment to her. It found that the parents were both in partial compliance with the case plan and that reasonable services had been provided to meet Rachel R.'s needs. The court ordered continued family reunification services and individual therapy for Rachel R., and it directed that conjoint sessions with her parents resume as soon as possible. The court set a permanency review hearing pursuant to section 366.22 for May 12, 2014.

V. Eighteen-Month Permanency Hearing

In anticipation of the section 366.2 permanency review hearing, DCFS submitted a report to the court in May 2014. DCFS reported that Rachel was enrolled in school, anticipating an early graduation, and preparing to take the Scholastic Aptitude Test. Rachel had begun therapy on April 28, 2014, with a new therapist, Linda Leizerowitz. Although Leizerowitz was aware that conjoint counseling had been ordered by the court, she told DCFS that "she [wa]s trying to build a rapport" with Rachel R. and did not believe it was in Rachel R.'s best interest at this time to push her to engage in conjoint

counseling. Rachel R. remained resolutely opposed to contact or conjoint counseling with her family, and explained that she saw no point in conjoint counseling because Judy R. focused on herself for the duration of the three sessions that had taken place. DCFS advised the court, "There has been no progress in healing Rachel and the parents' relationship, due to Rachel refusing to talk or visit with her parents or have any type of therapeutic contact with her parents. Rachel is in therapy and her therapist stated that she is building a rapport with Rachel at this time and that she cannot push Rachel to do conjoint therapy if Rachel does not want to. Rachel wishes to remain in foster care and emancipate from the system. Therefore, the Department recommends that family reunification services be terminated for Rachel and long term foster care be the permanent plan."

The hearing was continued to August 2014 for a contested hearing.

On May 19, 2014, Rachel R. told DCFS that she had contacted her father by text message. She said that she would think about conjoint therapy with him, but she did not want him to think that she would return home. DCFS consulted Leizerowitz on June 10, 2014, who advised that "she [wa]s still developing a rapport with Rachel and believe[d] it [wa]s not appropriate at this time to start conjoint therapy with her father." That same day, DCFS spoke with Rachel R. about her therapist's view that conjoint therapy was not appropriate. Rachel R. responded that it was fine with her to wait on conjoint sessions, that she had doubts about them, and that she had "no hope or expectations" for her parents or for their relationship.

On July 14, 2014, DCFS again approached Leizerowitz about conjoint therapy. Leizerowitz stated that other issues in Rachel R.'s life, such as transitional housing and college plans, had taken precedence over the question of conjoint therapy, but that she would address the issue with Rachel R.

At the contested section 366.22 hearing on August 11, 2014, both parents requested that Rachel R. be returned to their custody. They argued that DCFS had not provided reasonable services and that therefore, the court should find that extenuating

circumstances warranted the extension of reunification services past the 18-month point. Rachel R. and DCFS requested termination of reunification services.

The juvenile court found by a preponderance of the evidence that returning Rachel R. to the custody of either parent would create a substantial risk of detriment to her well-being. The court found that there was no reasonable likelihood that Rachel R. could be returned to the custody of her parents within the 24-month mark, commenting, "[L]ooking at what the court has sustained and what the parties have achieved, the conflicts, the position of Rachel, have not sufficiently altered to change the circumstances that brought Rachel before this court."

The court found by clear and convincing evidence that reasonable efforts had been made toward reunification. Specifically, the court observed that DCFS had maintained contact with Judy R. and Don R. and had attempted to remain informed of their progress in their court-ordered programming. DCFS had also remained in regular contact with Rachel R. and had attempted to be apprised of her progress, including education, physical health, mental health and her general well-being. Rachel R.'s social worker, the court found, had throughout the case addressed the issue of visitation; had ensured that she was in therapy; and had secured reports from therapists. The court observed, "The social worker cannot create the timelines in which rapport is sufficiently established such that Rachel's therapist can in-depth address issues of conjoint counseling and visitation with her parents. It appears that the current therapist is discussing those issues. The current therapist is addressing a variety of issues. And Rachel is making progress addressing some . . . basic yet significant issues in learning to take care of herself, which means understanding herself." The court observed that Rachel R. had always opposed visitation, and that her opposition stemmed from the conduct that formed the basis of the sustained petition. The court noted that it was "not in a position to order that Rachel be handcuffed or tied or restricted, carried into a car to visit her parents. The family issues that existed when Rachel came to this court must have been longstanding and they are not remediated."The court terminated reunification services.

The parties stipulated that there was no reasonable likelihood that Rachel R. would be adopted, that no guardianship was sought, and that the court could bypass a section 366.26 hearing and order her to a planned permanent living arrangement immediately. The court also rescinded its prior order for conjoint therapy, though it continued to encourage such sessions. Finally, the court removed the parents' educational rights over Rachel R. Don R. and Judy R. appeal.

DISCUSSION

I. Reasonableness of Services

For a dependent child three years of age or older, California law requires in most cases that a parent be provided with twelve months of family reunification services. (§ 361.5, subd. (a)(1)(A).) The court may extend reunification services "up to a maximum time period not to exceed 18 months after the date the child was originally removed" from parental custody if it can be shown that there is a substantial probability that the child can be returned to parental custody within that extended time period. (§§ 361.5, subd (a)(3); 366.21, subd. (g)(1).)

If a child is not returned to the custody of the parent at the 18-month date, reunification services shall be terminated unless the juvenile court exercises its discretion to extend family reunification services beyond the statutory limit. (§ 366.22, subd. (a); *Andrea L. v. Superior Court* (1998) 64 Cal.App.4th 1377, 1388 (*Andrea L.*).) Courts have allowed reunification services to continue past 18 months under exceptional circumstances "uniformly involv[ing] some external factor which prevented the parent from participating in the case plan" (*Andrea L.*, at p. 1388), such as when the social services provider has failed to make a reasonable effort to provide reunification services. (See, e.g., *In re Elizabeth R.* (1995) 35 Cal.App.4th 1774.) In deciding whether to extend reunification services, courts have required the juvenile court to consider whether the child will be able to return to parental custody within the extended time frame and whether extending reunification services would be in the child's best interest.

(*Los Angeles County Department of Children and Family Services v. Superior Court* (1997) 60 Cal.App.4th 1088, 1092; *In re Brequia Y. et al.* (1997) 57 Cal.App.4th 1060, 1067-1069.)

The juvenile court's decision whether to extend reunification services past the 18-month date is reviewed for an abuse of discretion. (*Andrea L., supra*, 64 Cal.App.4th at p. 1388.) The court's findings whether reasonable services were provided is reviewed under a substantial evidence standard of review. (*Katie V. v. Superior Court* (2005) 130 Cal.App.4th 586, 598 (*Katie V.*).)

Don R. and Judy R. argue that the juvenile court abused its discretion when it decided not to extend reunification services because the reunification services that had been provided were not reasonable. Don R., joined by Judy R., argues that when Rachel R. reached out to him in May 2014, Don R. should have received therapeutic services, specifically conjoint therapy. Because no conjoint therapy was provided, he contends that the juvenile court could not properly have determined at the time of the section 366.22 hearing that reasonable efforts had been made toward reunification. Judy R. argues[3] that DCFS failed to "facilitate on-going conjoint therapy throughout Rachel's transition from Arizona to California," contending that although Rachel R. was moved from Arizona to California her Arizona therapist should have continued to hold conjoint therapy sessions by telephone with all parties because Rachel R. had a rapport with that therapist.

"'[T]he focus of reunification services is to remedy those problems which led to the removal of the children.'" [Citation.] A reunification plan must be tailored to the

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3 Although Judy R. also complains about the delay before Rachel R. was placed in therapy after disposition, Rachel R.'s frustration of visitation, and the delay in establishing conjoint therapy, these events occurred prior to the review period at issue here. Judy R. did not seek appellate review of the court's findings at the six-month and twelve-month review hearings that DCFS had provided reasonable services. A parent may not "wait silently by until the final reunification review hearing to seek an extended reunification period based on a perceived inadequacy in the reunification services occurring long before that hearing." (*Los Angeles County Department of Children and Family Services v. Superior Court*, *supra*, 60 Cal.App.4th at p. 1092.)

particular individual and family, addressing the unique facts of that family. [Citation.] A social services agency is required to make a good faith effort to address the parent's problems through services, to maintain reasonable contact with the parent during the course of the plan, and to make reasonable efforts to assist the parent in areas where compliance proves difficult. [Citation.] However, in most cases more services might have been provided and the services provided are often imperfect. [Citation.] 'The standard is not whether the services provided were the best that might be provided in an ideal world, but whether the services were reasonable under the circumstances.' [Citation.]" (*Katie V., supra*, 130 Cal.App.4th at pp. 598-599.)

The record does not support Don R.'s assertions that "no further effort had been made to reunite Rachel with her father" after Rachel R. expressed in May and June 2014 that she might be open to conjoint therapy with her father and that DCFS deferred to "the needs of Rachel's therapist, not Rachel." As Don R.'s counsel reported to the court at the section 366.22 hearing, as soon as his counsel became aware that Rachel R. would entertain conjoint sessions, she contacted her client, who contacted the social worker. What happened next, Don R.'s counsel represented to the juvenile court, was that "Rachel had a change of heart before that [conjoint therapy] could happen."

The record reflects, moreover, that DCFS appropriately pursued conjoint therapy with Rachel R. and her new therapist, Leizerowitz, on multiple occasions. In April 2014, even before Rachel R. expressed any willingness to meet with her father, and only two days after Leizerowitz's first session with Rachel R., the social worker explained to Leizerowitz that the court had ordered conjoint sessions with Rachel R.'s parents. On May 19, 2014, Rachel R. told her social worker that she would think about conjoint sessions with her father. On June 2, 2014, the social worker asked Rachel R. if she was ready for conjoint sessions with her father, and she replied affirmatively. The social worker telephoned Leizerowitz that day and left a message regarding conjoint sessions because Leizerowitz was on vacation.

The following week, on June 10, 2014, Rachel R.'s social worker spoke with Leizerowitz about conjoint sessions, but given the recent inception of their therapeutic

relationship Leizerowitz did not believe that conjoint sessions were yet appropriate. The social worker pressed Leizerowitz, telling her that "Rachel appeared okay and comfortable with this last week." Leizerowitz explained that "at this time Rachel appears doubtful" about conjoint counseling. That same day, DCFS consulted Rachel R. about conjoint sessions and Leizerowitz's view that conjoint therapy was not appropriate at that time. Rachel R. agreed to hold off on conjoint sessions, expressed doubts about conjoint sessions, and said she had "no hope or expectations" for her parents or for their relationship.

DCFS inquired again with Leizerowitz about conjoint sessions on July 14, 2014, but learned that Rachel R.'s therapy had been focusing on the issues that were pressing for Rachel R. at the time—her college plans and concerns about obtaining transitional housing, as well as a medical issue Rachel R. had been experiencing.

This record shows that DCFS did pursue conjoint counseling both before and after Rachel R. expressed an interest, but that due to the circumstances of the case, the mental health professional providing services to Rachel R. did not find that conjoint counseling was yet appropriate and was devoting therapeutic resources to other issues important to Rachel R.'s well-being. As the juvenile court explained at the section 366.22 hearing, "The social worker cannot create the timelines in which rapport is sufficiently established such that Rachel's therapist can in-depth address issues of conjoint counseling and visitation with her parents. It appears that the current therapist is discussing those issues. The current therapist is addressing a variety of issues. And Rachel is making progress addressing some . . . basic yet significant issues in learning to take care of herself, which means understanding herself."

Moreover, the record does not support Judy R.'s contention that DCFS failed to provide reasonable services because it did not institute telephonic conjoint sessions during Rachel R.'s move back to California. In the first place, the record does not appear to support Judy R.'s assertion that the therapist providing the conjoint therapy had any rapport with Rachel R. The therapist who conducted the conjoint sessions was Ellis, whom Rachel R. had emphatically refused to see for individual counseling and who had

advocated that Rachel R. should be sent to a residential treatment facility. Judy R. does not identify any evidence in the record that this conflict between Rachel R. and Ellis was resolved or that any rapport was created between them.

The therapist with whom Rachel R. had built a relationship in Arizona was Connolly, her individual counseling therapist. Connolly "sat in" during conjoint therapy sessions conducted by Ellis in Arizona in which Rachel R.'s parents participated by speaker phone. Although it is clear from the record that Ellis was licensed to practice in both Arizona and California, Judy R. has not identified evidence in the record demonstrating that Connolly was licensed to practice in California such that she could participate in telephonic sessions once Rachel R. had moved. Moreover, to the extent Judy R. envisions conjoint sessions with two therapists and three family members speaking on the telephone being beneficial because Connolly, too, could be on the phone, it is not unreasonable to conclude that whatever their rapport, Connolly would not have been able to provide significant support to Rachel R. in a five-party telephone session conducted by another therapist. As Ellis noted after the first conjoint session, Rachel R. was "emotionally guarded" despite having Connolly present with her in the room; Judy R. does not provide any argument as to how Connolly listening in on the phone line as Ellis conducted the counseling session would have capitalized on the rapport she mentions as a reason to continue such sessions by telephone once Rachel R. moved away. Judy R. has not established that DCFS failed to provide reasonable services when it failed to pursue continued conjoint therapy with Arizona-based therapists after Rachel R. moved back to California.

Finally, a review of the record strongly suggests that the disruption in conjoint sessions was attributable to the actions of Don R. and Judy R. rather than to any failure of diligence on the part of DCFS. Several conjoint sessions had occurred pursuant to court order prior to Rachel R.'s return to California. Had Don R. and Judy R. been willing to maintain Rachel R.'s placement in Arizona by paying her boarding school tuition, her therapeutic relationships would have remained undisturbed and conjoint sessions could have continued with the therapeutic team that had painstakingly been secured over prior

months. But Don R. and Judy R., who were willing to pay far more money for Rachel R. to be placed in a residential treatment facility under a home of parent order, refused to pay for Rachel R. to board at the high school for the remainder of her school year. This refusal forced DCFS to move Rachel R. back to California for a new placement, a move that disrupted both her individual and conjoint therapy. Rachel R. had to begin anew with a California therapist, and before that therapist could responsibly launch into conjoint sessions with Don R. and Judy R., she required time to establish a therapeutic relationship with her new client. Moreover, Rachel R. was reasonably more concerned with her future than her with her past, and for her therapy to concentrate on the pressing issues of her future education, housing and health rather than on conjoint sessions with her mistrusted parents was entirely reasonable based on the circumstances of this maturing young woman who was planning her future and education on her own.

We conclude that substantial evidence supports the juvenile court's conclusion that DCFS made reasonable efforts toward reunification and that DCFS appropriately pursued conjoint counseling sessions in the final months before the termination of reunification services. As the record does not support the parents' contention that DCFS failed to provide reasonable services in the area of conjoint therapy, they have not established any abuse of discretion in the court's refusal to extend reunification services past the 18-month mark.

II. Removal of Education Rights from the Parents

A parent's right to make educational decisions may be limited only to the extent necessary to protect the child. (§ 361, subd. (a)(1).) Additionally, "the court may make any and all reasonable orders for the care, supervision, custody, conduct, maintenance, and support of the child, including medical treatment, subject to further order of the court." (§ 362, subd. (a).) We review orders limiting parents' educational rights under an abuse of discretion standard, bearing in mind that "'[t]he focus of dependency proceedings is on the child, not the parent' [citation]." (*In re R.W.* (2009) 172 Cal.App.4th 1268, 1277.)

Don R., joined by Judy R., argues that the juvenile court erred when it removed educational rights from them with respect to Rachel R., and that the limitation on his educational rights exceeded any limitation necessary to protect her. Don R. contends that the court's conclusion that educational rights should be removed from the parents because Rachel R. had no contact and wanted no contact with them was contradicted by the evidence that in May and June 2014 Rachel R. wanted to reestablish a relationship with her father. He argues that he was not compromised in his ability to make educational decisions for Rachel R., and that "[a]t all times, [the parents] honored Rachel's excellent academic pursuits." He concludes that "no evidence suggested the parents, in particular the father, were unwilling or unable to make reasonable educational decisions for Rachel."

The record supports the court's determination that removal of the parents' educational rights was necessary to protect Rachel R. A review of the events of the case reasonably permits the conclusion that the parents used their authority over Rachel R.'s education as a method of controlling or punishing this good student and academically motivated child. Early in the dependency proceedings, in February 2013 Don R. and Judy R. refused to pay the tuition for Rachel R.'s private high school because she would not visit with them. They repeated this behavior in January 2014, refusing to pay for Rachel R. to board for a semester at the Arizona high school where she had made tremendous personal progress. The boarding school reported that "the parents are very vocal that they don't want to write that check" and that they insisted that the school offer them a monthly payment plan despite the fact that the school did not offer partial payment plans. Instead, Rachel R.'s parents repeatedly sought to place Rachel R. in a therapeutic boarding school in Utah that cost between $12,000 and $15,000 per month. Not only did this school treat mental health issues that Rachel R. did not have, but if enrolled, Rachel R. would have been compelled to have contact with her parents. Don R. and Judy R. had been so successful at using education to control Rachel R. that her therapist ultimately recommended to the court that Rachel R. be enrolled in public school "so there is no danger to her [of] being dis-enrolled once again," or, if a private school

was chosen, that Don R. and Judy R. be required to commit to not disenrolling her again. The juvenile court did not abuse its discretion in concluding that removal of educational rights from the parents was necessary to protect Rachel R.

DISPOSITION

The orders are affirmed.

ZELON, Acting P. J.

We concur:

SEGAL, J.

STROBEL, J.*

* Judge of the Los Angeles Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.